

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

<p>WILLIAM RAY BAKER,</p> <p style="text-align: center;">Plaintiff/Counter Defendant,</p> <p style="text-align: center;">vs.</p> <p>PAULETTE DAVIDSON, CEO/President of Monument Health,</p> <p style="text-align: center;">Defendant/Counter Claimant.</p>	<p style="text-align: center;">5:21-CV-05093-KES</p> <p style="text-align: center;">ORDER DENYING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL</p>
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Plaintiff, William Ray Baker, filed a pro se lawsuit alleging unlawful discrimination under Title VII of the Civil Rights Act of 1964 and under the Americans with Disabilities Act of 1990. Docket 1 at 3. Baker also alleged retaliation in violation of the Fair Labor Standards Act. *Id.* Defendant, Paulette Davidson, moved for summary judgment on all claims, summary judgment on her counterclaim of barratry, and Rule 11 sanctions. *See* Docket 91 at 1. This Court granted Davidson's motion for summary judgment on Baker's claims, declined supplemental jurisdiction over Davidson's counterclaim, and denied Davidson's motion for Rule 11 sanctions. *Id.* at 15-16. Judgment was entered in favor of Davidson on November 17, 2022. Docket 92.

Baker filed a notice of appeal and a motion for leave to proceed in forma pauperis on appeal. Dockets 93, 94. Baker paid his initial filing fee in full when he filed his complaint and did not move for in forma pauperis status at that time. *See* Docket 1. "[I]n forma pauperis status does not require a litigant to

demonstrate absolute destitution.” *Lee v. McDonald’s Corp.*, 231 F.3d 456, 459 (8th Cir. 2000). But in forma pauperis status is a privilege, not a right. *Williams v. McKenzie*, 834 F.2d 152, 154 (8th Cir. 1987) (citation omitted). Baker’s financial affidavit in support of his motion shows that next month he expects an income of \$2,523.35. Docket 94 at 2. He also states that he has \$1,900.00 in a checking account and \$20,000.00 in a savings account. *Id.* Baker has sufficient funds to pay the \$505.00 appellate filing fee, so his motion for leave to proceed in forma pauperis (Docket 94) is denied. Baker must pay the filing fee of **\$505 by January 12, 2023.**

Thus, it is ORDERED:

1. That Baker’s motion for leave to proceed in forma pauperis on appeal (Docket 94) is denied.
2. Baker shall pay the \$505 appellate filing fee to the Clerk of the United States District Court for the District of South Dakota.

Baker must pay the fee by **January 12, 2023.**

Dated December 12, 2022.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE